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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,226	10/25/2005	Wilhelmus Jacobus Van Gestel	NL 030406	7948
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EXAMINER				
HASAN, SYED Y				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/554,226

**Applicant(s)**

VAN GESTEL ET AL.

**Examiner**

SYED Y. HASAN

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 3/29/2007
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent thereof, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility "(Official Gazette notice of 22 November 2005), Annex IV reads as follows:

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101.

... a signal does not fall within one of the four statutory classes of Sec. 101

... signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of Sec. 101.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claim 11 defines a "computer program" with descriptive material.

A "program" embodying functional descriptive material is neither a process nor a product (i. e. a tangible "thing") and therefore does not fall into one of the four

statutory class of 101. Rather a "program" is a form of energy, in the absence of any physical structure or a tangible material.

Because the full scope of the claim as properly read in light of the disclosure encompasses non- statutory subject matter, the claim as a whole is non-statutory. The examiner suggests amending the claim to include the disclosed tangible readable computer readable media, while at the same time excluding the intangible media such as software, signals, carrier waves, etc. Any amendment to the claim should be commensurate with its corresponding disclosure.

#### ***Specification***

2. The disclosure is objected to because of the following informalities:

(1) On page 3 para 0047, change "output 45" to "output 41"

Appropriate correction is required.

#### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the details of each function as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

(1) **Figures 2, 3, 4 and 9** do not disclose the name of each box labeled so as to easily determine its functionality. Examiner recommends labeling each box with the corresponding description for ease of understanding.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings

for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 3 and 7 - 11 are rejected under 35 U.S.C. 102 (e) as being anticipated by Macrae et al (US 2005/0015803)

Regarding **claim 1**, Macrae et al discloses device for recording information on a record carrier (fig 3, 62, para 0060, fig 4, 66, para 0066 and fig 6, 98, para 0085 recording) which device comprises

recording means (22) for recording marks representing digitally encoded real-time information, in particular video, according to a predefined recording format (fig 3, 62, para 0060, fig 4, 66, para 0066 and fig 6, 98, para 0085 recording, para 0057 and 0065 recording video and para 0090 illustrates MPEG signal which is predefined recording format)

an input unit (27) for receiving a data stream constituting an enhanced user program, the data stream comprising the real-time information and application data objects, at least one subset of the application data objects constituting data for providing to a user at least one interactive application while rendering the real-time information (fig 3, 58, para 0059, fig 4, 70, para 0068 and fig 6, 104, para 0081 illustrate inputs for real-time information and interactive application and abstract illustrates user interaction)

message means (94) for extracting messages from the data stream, the messages containing the application data objects (para 0106 illustrates message extracted from data stream)

parsing means (95) for generating application control information (para 0069 illustrates generating application control information) and

control means (20) for storing the messages in a message file separate from the real-time information as a series of the messages for the program and for storing the application control information in a message info file, the application control information including accessing information for accessing the messages in the message file (paras 0062 and 0069 illustrate storage of interactive tv application data base and executing application)

Regarding **claim 2**, Macrae et al discloses device, wherein the parsing means (95) are arranged for including for a message at least one of the following items as accessing information in the message info file: a message number, the message number identifying the message in the series of the messages; a message type

indicator; a start location in the message file; length of the message; number of a succeeding message (para 0106 illustrates a message type indicator)

Regarding **claim 3**, Macrae et al discloses device, wherein the parsing means (95) are arranged for including active period information in the message info file, in particular a start time and end time with respect to a presentation time of the program (para 0099 illustrates start time and para 0121 illustrates end time)

**Claim 7** is rejected based on claim 1 above with the additional limitation regarding reading information as disclosed by Macrae et al (fig 3, para 0067. fig 4, para 0073 and fig 6, para 0081 illustrating playing as reading)

**Claims 8 and 10** are rejected based on claim 1 above.

**Claim 9** is rejected based on claim 2 above.

**Claim 11** is rejected based on claim 1 above with the added limitation regarding computer program as disclosed by Macrae et al (fig 6, 98, para 0081 personal computer)

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Macrae et al (US 2005/0015803) in view of Manor et al (US 2003/0236918)

Regarding **claim 4**, Macrae et al discloses device, wherein the message means (94) are messages extracted from the data (see claim 1 above)

However Macrae et al does not disclose removing redundant information from the data

On the other hand Manor et al teaches removing redundant information from the data (para 0030)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate removing redundant information from the data as taught by Manor et al in the system of Macrae et al in order to provide efficient encapsulated multimedia packets.

Regarding **claim 5**, Macrae et al discloses device, wherein the message means (94) are messages extracted from the data (see claim 1 above)

However Macrae et al does not disclose removing as the redundant information header information of packets, in particular headers of transport stream packets

On the other hand Manor et al teaches removing as the redundant information header information of packets, in particular headers of transport stream packets (para 0030)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate removing as the redundant information header information of packets, in particular headers of transport stream packets as taught by Manor et al in the system of Macrae et al in order to efficient encapsulated multimedia packets.



8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macrae et al (US 2005/0015803) in view of Manor et al (US 2003/0236918) and further in view of Kostreski et al (5734589)

Regarding **claim 6**, Macrae et al discloses device, wherein the message means (94) are messages extracted from the data (see claim 1 above)

However Macrae et al does not disclose removing as the redundant information that are repeatedly transmitted, in particular in a data carousel.

On the other hand Kostreski et al teaches removing as the redundant information (col 26, lines 31 – 46 illustrates removing redundant data) that are repeatedly transmitted, in particular in a data carousel (col 29, lines 42 – 44 illustrates data carousel)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate removing as the redundant information that are repeatedly transmitted, in particular in a data carousel as taught by Manor et al in the combined system of Macrae et al and Manor et al in order to provide efficient broadcast.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Horton (US 5969770) discloses animated "on-screen" display provisions for an MPEG video signal processing system

Vienneau et al (US 7427988) discloses method and apparatus for defining and distributing an animation

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Y. H.  
12/02/2008

/Thai Tran/  
Supervisory Patent Examiner, Art Unit 2621

